

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

DONALD LEE UBELE,)	
)	
Plaintiff,)	
)	
v.)	Case No. CV413-082
)	
STATE OF GEORGIA,)	
)	
Defendants.)	

REPORT AND RECOMMENDATION

Donald Lee Ubele, a federal prisoner, has filed a “notice of appeal” seeking to reverse the outcome of a state case that was dismissed for his failure to follow state procedural rules. (Doc. 1.) For the purposes of this Report and Recommendation, the Court **GRANTS** Ubele’s motion to proceed *in forma pauperis* (doc. 4), but this case should be **DISMISSED** for lack of jurisdiction.

Ubele insists that the State of Georgia improperly seized \$13,986 from him in 2005. (Doc. 1 at 3.) Initially, he filed an action challenging the seizure in Chatham County Superior Court. (Doc. 1-1 at 5.) That

court dismissed the action, and Ubele filed a direct appeal to the Georgia Court of Appeals. (Doc. 1-1 at 12.) The appellate court denied his direct appeal, informing him that under Georgia's Prison Litigation Reform Act it lacked jurisdiction to consider his appeal unless he first filed an application for discretionary review. (*Id.*, citing *Jones v. Townsend*, 267 Ga. 489, 490 (1997).) Rather than doing so, he filed a "notice of appeal" in this Court. Federal district courts, however, do not act as appellate courts over state tribunals. *D.C. Ct. App. v. Feldman*, 460 U.S. 462, 482-86 (1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923). "The *Rooker-Feldman* doctrine precludes federal courts -- other than the United States Supreme Court -- from reviewing final judgments of state courts." *Talley v. Columbus, Georgia Housing Auth.*, 402 F. App'x 463, 464 (11th Cir. 2010); *Liedel v. Juvenile Ct. of Madison County*, 891 F.2d 1542, 1545 (11th Cir. 1990); *Staley v. Ledbetter*, 837 F.2d 1016, 1017 (11th Cir. 1988) ("The federal courts are not a forum for appealing state court decisions."). Instead, such dissatisfied litigants must appeal through the state system and ultimately to the United States Supreme Court. *Leidel*, 891 F.2d at 1545. If Ubele is convinced that the state misapplied its procedural rules, his next step is to file a petition for

certiorari to the United States Supreme Court, rather than filing a notice of appeal in this Court. Alternatively, he should file an application for discretionary review in the state appellate court.

This case should be **DISMISSED** under Fed. R. Civ. P. 12(h)(3), for failing to offer any basis for federal jurisdiction. Alternatively, it should be dismissed for his failure to state a claim for relief. 28 U.S.C. § 1915(e)(2)(B).

SO REPORTED AND RECOMMENDED this 22nd day of May, 2013.


UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA